

MACKIE WOLF ZIENTZ & MANN, P.C.
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**UNITED STATES BANKRUPTCY COURT
IN THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

**OBJECTION TO CONFIRMATION BY RUSHMORE LOAN MANAGEMENT
SERVICES, LLC AS MORTGAGE SERVICER FOR U.S. BANK NATIONAL
ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS TRUSTEE
FOR THE RMAC TRUST, SERIES 2016-HC-CTT**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

COMES NOW, RUSHMORE LOAN MANAGEMENT SERVICES, LLC as mortgage servicer for U.S. Bank National Association, not in its individual capacity but solely as trustee for the RMAC Trust, Series 2016-HC-CTT , as Mortgage Servicer (hereinafter Creditor), a secured creditor herein, and pursuant to 11 U.S.C. §§ 1322(b)(2), 1324 and 1325(a)(5), and Bankruptcy Rule 3015(f) files this, its Objection to Debtor(s) proposed Chapter 13 Plan (hereinafter Plan), and in support thereof would respectfully show the Court as follows:

I. BACKGROUND

1. LISA VINNETTE RICHARDS-DACOSTA dba DaCosta Business Solutions, LLC aka Lisa V. Richards-Decosta, the Debtor, commenced the above captioned Chapter 13 case on 12/30/2022. Deborah B. Langehennig is the duly appointed and acting Chapter 13 Trustee.
2. Creditor is the mortgage servicer for the mortgagee of a Note in the original principal sum of \$85,451.67, dated 11/06/2008 executed by Debtor(s). The Note is secured by a Deed of Trust of even date therewith granting a lien against real property located at 8500 SPRING VALLEY DRIVE, AUSTIN, TX 78736 (hereinafter Property). The Note and Deed of Trust were assigned to Creditor.
3. The total estimated pre-petition arrearage due and owing to Creditor as of the Petition date is \$139,276.95. The estimated total claim amount due and owing to Creditor as of the Petition Date is \$178,376.93. Creditor is preparing its proof of claim and assets this objection to preserve its rights.

II. OBJECTION TO PROPOSED PLAN

4. Creditor objects to confirmation of the Plan because the Plan fails to provide for the correct treatment to Creditor. The loan is set to mature during the term of the Plan. Creditor is entitled to full payment of its full total debt claim pursuant to the Note and Deed of Trust in the amount of \$178,376.93. Creditor therefore objects to Debtor(s) proposed treatment of its secured claim.

5. Furthermore, Creditor objects to confirmation of the Plan because the Plan provides for the loan to remain escrowed during the term of the Plan. Since the loan is set to mature, it is the Debtor's sole responsibility to provide for the property taxes and insurance. Neither of those is listed as a projected expense in the Debtor's Schedules. Debtor further fails to provide any interest on the claim. Creditor is entitled to the prime rate plus an adjustment for risk. In this case, Creditor asserts it should receive interest at 10.5%. Creditor therefore objects to debtor(s) proposed treatment of its secured claim.

6. Because the treatment listed for Creditor is improper, the Chapter 13 plan may not be feasible.

7. Because Creditor was forced to file this Objection to Confirmation to protect its secured interest in the subject real property, it has incurred reasonable attorneys' fees.

WHEREFORE, PREMISES CONSIDERED, Creditor prays that this Court deny confirmation of the Plan proposed by the Debtor(s), award attorneys' fees and costs, and grant Creditor such other and further relief, at law and in equity, as is just.

Respectfully submitted,

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ATTORNEY FOR CREDITOR

Certificate of Service

I, Jessica L. Holt, do hereby certify on February 2, 2023, a copy of this motion was served on the persons listed below in the manner indicated.

By: */s/ Jessica L. Holt*

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Via Pre-Paid U.S. Mail:
LISA VINNETTE RICHARDS-DACOSTA dba DaCosta Business Solutions, LLC aka Lisa V.
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Debtor(s)

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